

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE ESTATE OF BONELL RASHTI

Plaintiff

VS.

CIVIL ACTION NO. 3:17-cv-1250

BANK OF AMERICA, N.A.,
SPECIALIZED LOAN SERVICING, L.L.C.,
QBE AMERICAS, INC.
BRIT INSURANCE,
CERTAIN UNDERWRITERS AT LLOYDS,
LONDON AND GREAT LAKES
REINSURANCE (UK), P.L.C. AND
BANK OF NEW YORK MELLON f/k/a
BANK OF NEW YORK, AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF THE
CWABS, INC. ASSET-BACKED
CERTIFICATES SERIES 2007-9

Defendants

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY)**

Pursuant to 28 U.S.C. § 1441, Defendant QBE Americas, Inc. (“QBE”) removes this action to the United States District Court for the Northern District of Texas, Dallas Division. The basis for removal is that diversity jurisdiction exists.

I. BACKGROUND

1. On April 7, 2017, Plaintiff filed its Original Petition in a lawsuit styled *The Estate of Bonell Rashti vs. Bank of America, N.A., Specialized Loan Servicing, L.L.C., QBE Americas, Inc., BRIT Insurance, Certain Underwriters at Lloyds, London and Great Lakes Reinsurance (UK), P.L.C. and Bank of New York Mellon f/k/a Bank of New York, as trustee for CWABS, Inc. Asset-Backed Certificates Series 2007-9*, Cause No. DC-17-04160. The case was assigned to the

95th Judicial District Court of Dallas County, Texas, and is hereafter referred to as “the state court action.” True and correct copies of all of the state court process, pleadings, and orders are attached to this notice.

2. Plaintiff’s Original Petition asserts, according to the paragraph headings, twenty-four “causes of action” against some or all of six defendants. The state court action appears to involve Plaintiff’s complaints regarding two flood insurance claims for alleged damage to real property located in Harris County, Texas, as well as vaguely-described complaints regarding some defendants’ alleged refusal of Plaintiff’s “repeated requests for a loan modification or other mortgage relief assistance” relating to the Harris County property (Original Petition, p. 48, ¶ 184).

3. Federal jurisdiction is based upon complete diversity of citizenship in accordance with 28 U.S.C. § 1332. There is complete diversity among the parties properly joined in this action both at the time that Plaintiff filed the state court action and at the time of removal.

4. The first defendant to be served in the state court action was served on April 13, 2017.

II. GROUNDS FOR DIVERSITY JURISDICTION

5. Removal is authorized because the state court action is a civil action in which this Court has original jurisdiction under 28 U.S.C. § 1332. In addition, QBE can remove the state court action to this Court pursuant to 28 U.S.C. § 1441(b). The state court action is a civil action between citizens of different states and/or countries and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. This Court has jurisdiction because none of the parties properly joined as defendants is a citizen of Texas, the state in which the state court action was brought.

A. CITIZENSHIP OF THE PARTIES

6. On information and belief, Plaintiff The Estate of Bonell Rashti is now, and was at the time the state court action was commenced, a citizen and a resident of Texas. Plaintiff's Original Petition states that Plaintiff is "an estate being independently administered in Dallas County, Texas." Original Petition, p. 2, ¶ 1. On information and belief, the decedent was a citizen and resident of Texas.

7. On information and belief, Defendant Bank of America, N.A. ("BANA") is a national banking association organized under the laws of the United States with its main office in Mecklenburg County, North Carolina. As a national banking association, BANA's citizenship is determined solely by the location of its main office, as designated in its articles of association. 28 U.S.C. § 1348; *Wachovia Bank v. Schmidt*, 546 U.S. 303, 318 (2006). Therefore, BANA is a citizen and a resident of North Carolina.

8. On information and belief, Defendant Specialized Loan Servicing, L.L.C. is now, and was at the time the state court action was commenced, a citizen and a resident of Australia.

9. Defendant QBE Americas, Inc., is now, and was at the time the state court action was commenced, a citizen and a resident of Delaware. This defendant was and is incorporated in Delaware and its principal place of business was and is in Delaware.

10. On information and belief, Defendant BRIT Insurance is now, and was at the time the state court action was commenced, a citizen and a resident of the United Kingdom.

11. On information and belief, Defendants Certain Underwriters at Lloyds, London and Great Lakes Reinsurance (UK), P.L.C. are now, and were at the time the state court action was commenced, citizens and residents of the United Kingdom.

12. On information and belief, Defendant Bank of New York Mellon f/k/a Bank of New York, as trustee for CWABS, Inc. Asset-Backed Certificates Series 2007-9 is now, and was at the time the state court action was commenced, a citizen and a resident of New York. The location of this defendant's main office is in New York. 28 U.S.C. § 1348.

B. AMOUNT IN CONTROVERSY

13. Plaintiff's claims against Defendants exceed the sum or value of \$75,000.00, exclusive of interest and costs. Plaintiff's Original Petition "seeks a judgment for" itemized alleged damages of \$577,291.33 plus additional unspecified damages. Original Petition, p. 50, ¶¶ 1-13.

C. VENUE

14. The state court action may be removed to the District Court for the Northern District of Texas, Dallas Division, because this is the United States District Court for the district and division within which the state court action was pending. 28 U.S.C. § 1446(a). Still, pursuant to Texas Civil Practice and Remedies Code § 15.011, mandatory venue of the state court action is in Harris County, Texas.

D. TIMELY REMOVAL

15. This notice of removal is timely because it is being filed within thirty days after Defendant's receipt of a copy of Plaintiff's Original Petition. 28 U.S.C. § 1446(b)(1).

E. NOTICE OF FILING

16. Counsel for QBE will serve a copy of this notice of removal on counsel for Plaintiff, and will file a copy of this notice of removal with the clerk of the 95th Judicial District Court of Dallas County, Texas, where the state court action was pending, in accordance with the provisions of 28 U.S.C. § 1446(d).

F. CONSENT TO REMOVAL

17. All properly joined defendants that have been served and appeared in the state court action as of the date of the filing of this notice of removal consent to and join in the removal.

G. COMPLIANCE WITH LOCAL RULES

18. Pursuant to LR 81.1, a completed civil cover sheet and a supplemental cover sheet have been filed along with this notice; an index of all documents filed in the state court action is attached as Exhibit A; a copy of the docket sheet in the state court action is attached as Exhibit B; the documents filed in the state court action are filed as separate attachments arranged in chronological order as Exhibits C-1 to C-10; and QBE's separately signed certificate of interested persons is attached as Exhibit D.

III. CONCLUSION

19. QBE removes this action from the 95th Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division; requests that this Court assume full jurisdiction of this cause as if it had originally been filed here; and also requests that further proceedings in the state court action be stayed. QBE also respectfully requests any other relief to which it may be entitled.

Respectfully submitted,

THE LITTLE LAW FIRM, P.C.

/s/ Joseph R. Little

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Attorney in Charge for Defendant QBE Americas,
Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above document has been served upon all parties in accordance with the Texas Rules of Civil Procedure on this the 9th day of May, 2017.

/s/ Joseph R. Little

Joseph R. Little